

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PFIZER INC

Plaintiff/
Counterclaim Defendant,

Y.

TEVA PHARMACEUTICALS USA, INC.
and TEVA PHARMACEUTICAL
INDUSTRIES LTD.

Defendants/
Counterclaim Plaintiffs.

Civil Action No. 06-89-JJF

JURY TRIAL DEMANDED

PROPOSED RULE 16 SCHEDULING ORDER

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f) jointly submit the following Proposed Rule 16 Scheduling Order. The Parties have also agreed to the timeline attached hereto as Exhibit A.

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties have agreed to waive exchange of the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.

2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before May 18, 2007.

- ### 3. **Discovery.**

- (a) Exchange of the parties' first set of interrogatories (including contention interrogatories), document requests, and requests for admission is to occur on August 11, 2006. Responses to the first set of interrogatories (excluding contention

interrogatories), document requests, and requests for admission are due by October 11, 2006; responses to contention interrogatories are due by May 18, 2007. Additional sets of interrogatories, document requests, and requests for admission are permitted and shall be conducted according to the Federal Rules of Civil Procedure. Document production and the exchange of privilege logs is to be completed by January 11, 2007.

(b) Maximum of 50 interrogatories, including contention interrogatories, for each side.

(c) Maximum of 35 requests for admission by each side.

(d) Maximum of 12 depositions by each side, excluding expert depositions. Depositions of an entity pursuant to Fed. R. Civ. P. 30(b)(6) are to be counted as a single deposition per entity deposed. Depositions are to begin on March 19, 2007 and are to be completed by July 20, 2007.

(e) Opening reports from retained experts required by Fed. R. Civ. P. 26(a)(2) on issues on which a party bears the burden of proof are due by August 10, 2007; rebuttal reports are due by September 19, 2007.

(f) Depositions of experts are to begin on October 8, 2007 and are to be completed by November 9, 2007.

4. Discovery Disputes.

(a) A party seeking discovery which the opposing party refuses to provide shall file a motion (no brief) pursuant to Rule 37 of the Federal Rules of Civil Procedure and Local Rule 37.1. Said motion shall not exceed a total of four (4) pages and must specify that the filing is pursuant to the Discovery Dispute procedures provided in

this paragraph. An Answer to the Rule 37 motion, not to exceed four (4) pages, shall be filed within five (5) days of service of the motion. No reply is permitted.

(b) All papers shall set forth in a plain and concise manner the issue(s) in dispute, the party's position on the issue(s), and the reasons for the party's position.

(c) Upon receipt of the Answer, the movant shall notify Chambers by e-mail at jjf_civil@ded.uscourts.gov that the dispute is ready for decision.

(d) Upon receipt of the movant's e-mail, the Court will determine whether a conference is necessary and advise the parties accordingly.

(e) There is no limit on the number of Rule 37 motions a party may file, unless otherwise ordered by the Court.

5. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before May 18, 2007.

6. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before November 23, 2007. Answering briefs shall be served and filed on or before December 21, 2007, and reply briefs shall be served and filed on or before January 11, 2008. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The Court will issue a separate Order regarding procedures for filing summary judgment motions.

7. **Markman.** A Markman Hearing will be held on January 30, 2008. Opening Markman briefs shall be served and filed on or before November 23, 2007. Answering Markman briefs shall be served and filed on or before December 21, 2007,

and Reply Markman briefs shall be served and filed on or before January 11, 2008. The Court, after reviewing the briefing will allocate time to the parties for the hearing.

8. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective January 1, 1995). Any non-dispositive motion shall contain the statement required by D. Del. LR 7.1.1. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: jjf_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency.

9. **Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference.

The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

CONNOLLY BOVE
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SO ORDERED this _____ day of _____, 2006.

UNITED STATES DISTRICT JUDGE

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EXHIBIT A

EXHIBIT A -- PROPOSED TIMELINE
Pfizer Inc v. Teva Pharmaceuticals USA, Inc. et al.
Civil Action No. 06-89-JJF

12 Jul 2006 Proposed Rule 16 Scheduling Order Due

The Parties agree to waive the Rule 26(a)(1) Disclosures

11 Aug 2006 Service of Initial Set of Document Requests, Interrogatories, Requests for Admission
50 Interrogatories (maximum each side)
35 Requests for Admission (maximum each side)
12 Fact Depositions (maximum each side)

11 Oct 2006 Responses to initial set of Document Requests, Interrogatories, Requests for Admission

11 Jan 2007 Document Production Ends
(Rolling Production up until this date)
Privilege Log Due

19 Mar 2007 Fact Depositions Begin

18 May 2007 Joinder of Parties/Amendment of Pleadings/Responses to Contention Interrogatories Due

20 Jul 2007 Fact Depositions End

10 Aug 2007 Opening Expert Reports Due

19 Sept 2007 Rebuttal Expert Reports Due

08 Oct 2007 Expert Depositions Begin

09 Nov 2007 Expert Depositions End

23 Nov 2007 Opening Briefs Case Dispositive Motions/Markman Due

21 Dec 2007 Answer Briefs Case Dispositive Motions/Markman Due

11 Jan 2008 Replies to Answer Briefs/Markman Due

30 Jan 2008 Markman Hearing

Trial Date To be set by the Court